

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

UNITED STATES OF AMERICA

v.

PAUL J. MANAFORT, JR.,

Defendant.

Crim. No. 1:18-CR-83

STATUS REPORT

The United States of America, by and through Special Counsel Robert S. Mueller, III, hereby files this status report in light of the Court's Order dated January 28, 2019 (Doc. 311), in which the Court continued the sentencing hearing originally scheduled for February 8, 2019, until resolution of a dispute in the District of Columbia in *United States v. Manafort*, 17-201-1 (ABJ) (D.D.C. 2017) (the DC Court). The government writes to apprise the Court that the defendant's breach of the plea agreement was conceded by the defense on January 25, 2019, and found by the DC Court as well on February 13, 2019. Further, the DC Court has resolved the issues as to whether the defendant made intentionally false statements to the government after entering into his plea agreement. Accordingly, the government requests that the Court set a new sentencing date as soon as practicable. The government expects to file today its sentencing submission for the Court's consideration.

On September 14, 2018, shortly before his second trial in the District of Columbia, Manafort pled guilty to a two-count superseding information pursuant to a plea agreement

requiring his cooperation.¹ The two charges encompassed all of the factual allegations in the charges brought in the District of Columbia.² The Statement of Offenses and Other Acts signed in connection with the plea agreement also contained admissions by Manafort about the conduct at issue in the mistried counts in the Eastern District of Virginia.³

Manafort pled guilty pursuant to a plea agreement that required him to “fully, truthfully, completely, and forthrightly” cooperate with the government.⁴ The plea agreement provided that if the defendant fails to fulfill completely “each and every one” of his obligations under this agreement, or “engages in any criminal activity prior to sentencing,” the defendant will be in breach of the agreement. Under the plea agreement, the Government “in its sole discretion” can determine whether the defendant breached the agreement and is required to prove a breach by good faith.⁵ A breach relieves the government of any obligations it has under the agreement but leaves intact all the obligations of the defendant as well as his guilty pleas.⁶

In November 2018, the government informed the DC Court that it had determined Manafort breached the plea agreement by lying to the Federal Bureau of Investigation (FBI) and the Special Counsel’s Office on a variety of subject matters.⁷ Subsequently, in support of its

¹ Plea Agreement, *United States v. Manafort*, 17-201-1 (D.D.C. Sept. 14, 2018) (Doc. 422).

² See Superseding Criminal Information ¶¶ 33-36, *United States v. Manafort*, 17-201-1 (D.D.C. 2018) (Doc. 419); Statement of the Offenses and Other Acts at ¶¶ 44-46 (Doc. 423); Plea Hr’g Tr. 32:15 – 33:16, 34:17-20 (Doc. 424).

³ See Statement of the Offenses and Other Acts at ¶¶ 47-54, *United States v. Manafort*, 17-201-1 (D.D.C. Sept. 14, 2018) (Doc. 423).

⁴ Plea Agreement ¶ 8, *United States v. Manafort*, 17-201-1 (D.D.C. 2018) (Doc. 422); Plea Hr’g Tr. 39:10-17, 48:11-16, Sept. 14, 2018.

⁵ Plea Agreement ¶ 13, *United States v. Manafort*, 17-201-1 (D.D.C. 2018) (Doc. 422).

⁶ Plea Agreement ¶¶ 4B, 7-9, & 13, *United States v. Manafort*, 17-201-1 (D.D.C. 2018) (Doc. 422).

⁷ Gov’t. Submission in Support of Its Breach Determination, *United States v. Manafort*, 17-201-1 (D.D.C. 2018) (Doc. 461).

breach determination, the government filed a 31-page declaration of an FBI Special Agent accompanied by more than 800 pages of exhibits.⁸

At a hearing before the DC Court on January 25, 2019, Manafort conceded the government made its determination that he breached the plea agreement in good faith;⁹ however, Manafort disputed that he intentionally lied to the government. Since Manafort did not seek to call any witnesses,¹⁰ the DC Court heard argument and ruled on whether Manafort intentionally lied to the government after he entered into the plea agreement. The DC Court had previously outlined various ways that intentional falsehoods by Manafort after he entered into the plea agreement could be pertinent to its sentencing.¹¹

On February 4, 2019, the parties argued in a sealed hearing before the DC Court whether the government proved by a preponderance of the evidence that Manafort intentionally lied during debriefing sessions and to a federal grand jury. At the hearing, the DC Court also scheduled Manafort to be sentenced in the District of Columbia on March 13, 2019.

⁸ Decl. In Supp. Of Govt. Breach Determination, *United States v. Manafort*, 17-201-1 (D.D.C. 2018) (Doc. 474).

⁹ Hr'g Tr. 13:13-16, Jan. 25, 2019 ("THE COURT: Are you conceding that the Special Counsel did, in fact, make its determination in good faith? Mr. WESTLING: We are, your Honor.") (attached as Exhibit 1); *Id.* at 21:12-18 ("MR. WEISSMANN: One is the issue of whether the government has determined that there was a breach in good faith, and that's one set of issues. THE COURT: And I believe they have conceded the issue --. MR. WEISSMANN: I agree. THE COURT: -- on the record. Okay.").

¹⁰ Hr'g Tr. 17:5-15, Jan. 25, 2019 ("THE COURT: ...[W]e're not going to need a further evidentiary presentation? There's not going to be witnesses' testimony, but that I can base my decision on the record before me right now? MR. WESTLING: We believe the record is complete and is sufficient for the Court to make a determination, yes.").

¹¹ Hr'g Tr. 11:4-13, Jan. 25, 2019 ("THE COURT: ...I have to look at all the statutory factors to be considered when you sentence someone,...which would plainly include his candor, particularly during the pendency of this case and particularly when dealing with the Office of Special Counsel.").

On February 13, 2019, the DC Court issued a ruling from the bench regarding whether the government proved by a preponderance of the evidence that Manafort intentionally lied to the government. Specifically, the DC Court determined that he had intentionally lied as to three subject areas, and had not with respect to two others. The DC Court also issued an order, which is attached hereto as exhibit 2. A redacted transcript of the proceeding is being prepared and the government can provide it to the Court, as well as under seal the unredacted transcript.

Because the DC Court has determined that Manafort intentionally lied to the government, and the breach of the agreement was conceded by the defendant and found by the DC Court, the government submits there are no outstanding issues warranting delay in proceeding to sentencing before this Court. The government is prepared for sentencing at the Court's earliest convenience.

Dated: February 15, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of February, 2019, I will cause to be filed electronically the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

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